from setting up that defense in the actions at law and the plaintiffs would be saved the necessity of combating it, and thus most of the actions would resolve into mere proceedings to assess damages.

APPLICATION OF BULK SALES ACT TO THE TRANSFER OF A STOCK OF GOODS TO A CREDITOR IN SATISFACTION OF A DEBT.—What are commonly known as the Bulk Sales Acts have recently been enacted in most of the states. The details of these statutes vary slightly, but their general purport is that a sale in bulk, or portion thereof, not in the usual course of business is presumed to be fraudulent and void unless certain formalities either of record or notice to creditor, or both, be observed. The object of these statutes is to prevent frauds upon creditors which a debtor might easily perpetrate by concealing the consideration received from such a sale. The constitutionality of these acts was attacked upon the ground that they made an arbitrary classification, that they were class legislation and that they deprived dealers of their property without due process of law. Although a few were held invalid for those reasons, the great majority were finally held constitutional.[1] Accordingly sales in bulk not complying with the requirements of notice to the creditors contained in the statutes are generally held to be fraudulent and void as to creditors.[2]

As these acts are in derogation of the common law they have received a strict construction. Some use only the term "sale," but most of them provide for any "sale, transfer or assignment" out of the usual course of business. While on principle it would seem that this would make a material difference in the application, yet in most cases the transaction must practically come within the legal definition of a sale in order for the act to apply. Hence, it has been held that the words "sale, transfer or assignment" do not include a chattel mortgage,[3] nor a deed of trust to secure certain creditors.[4] A recognized exception of the application of the bulk sales act to a sale of the whole stock or a portion thereof is the

[1] Lemiux *v.* Young, 211 U. S. 489; Walp *v.* Lamkin, 76 Conn. 515, 57 Atl. 277; John P. Squire & Co. *v.* Tellier, 185 Mass. 18, 69 N. E. 312, 102 Am. St. Rep. 322; Neas *v.* Borches, 109 Tenn. 398, 71 S. W. 50, 97 Am. St. Rep. 851; McDaniels *v.* J. J. Connelly Shoe Co., 30 Wash. 549, 71 Pac. 37, 94 Am. St. Rep. 889, 60 L. R. A. 947.

[2] Kight *v.* Stephen Putney Shoe Co., 137 Ga. 493, 73 S. E. 740; Cantrell *v.* Ring, 125 Tenn. 472, 145 S. W. 166; Mutz *v.* Sanderson 94 Neb. 293, 143 N. W. 302; Williams *v.* Crowdus Drug Co. (Tex. Civ. App.), 167 S. W. 187 (holding the sale void as to a creditor who received a notice not in accordance with the statute); Pennell *v.* Robinson, 164 N. C. 257, 80 S. E. 417.

[3] Hannah & Hogg *v.* Richter Brewing Co., 149 Mich. 220, 112 N. W. 713; Noble *v.* Ft. Smith Wholesale Grocery Co., 34 Okla. 662, 127 Pac. 14.

[4] McAvoy *v.* Jennings, 44 Wash. 79, 87 Pac. 53. In Terrell Grain Co. *v.* Young (Tex. Civ. App.), 152 S. W. 671, a sale by a trustee holding title to a stock for certain preferred creditors was held void because of non-compliance with the act.

case of one partner selling his interest to his copartner.[5] As the stock is still liable for the creditors' claims, it being a mere transfer of ownership, and not of liability, from one partner to the other, there seems to be no reason for the application of the act in such a case. But this exception is limited to a sale between existing partners and does not allow a merchant to take in a partner by selling him an interest in the stock, and notice of such a sale must comply with the requirements of the act.[6]

As has been seen, the manifest purpose of these statutes is to prevent the commission of frauds upon creditors by forbidding a merchant to convert his stock into cash or other consideration which he might easily conceal and thus defeat the claims of his creditors. It is clear that a sale in its strictly legal sense comes within the purview of all the statutes, and it would likewise seem that a transfer of a stock to a creditor in payment of a debt would also be included, especially where the act provides for a "sale, assignment or transfer." In such a case the debtor receives no cash or other consideration which the creditors could in any way subject to the payment of their claims. While the authorities are few, such a transfer is, it seems, more properly held to come within the scope of the act.[7] As this transfer is not a sale in the usual course of business, such holdings seem correct on principle, but in the recent case of *Des Moines Packing Co.* v. *Uncaphor* (Iowa), 156 N. W. 171, it was held that an assignment of a stock to a creditor in payment of his claim by a sale thereof with an agreement to pay the remaining surplus to the debtor did not come within the act, and the transfer was valid without notice to other creditors. The court in its opinion said that the Iowa act was not as broad as those of Massachusetts and Georgia, whose courts held otherwise. The Iowa statute provided that no retail or wholesale merchant could "sell, assign, or deliver" out of the usual course of business without notice, etc., while the Massachusetts statute included only a "sale" out of the usual course of business,[8] and the Georgia statute provided for any "sale or transfer" out of the usual course of business.[9] So, instead of the Iowa statute not being as broad as the Massachusetts statute, the Iowa

[5] Fairfield Shoe Co. *v.* Olds, 176 Ind. 526, 96 N. E. 592; Yancey *v.* Lamar-Rankin Drug Co., 140 Ga. 359, 78 S. E. 1078; Taylor *v.* Folds, 2 Ga. App. 453, 58 S. E. 683.

[6] Daly *v.* Sumpter Drug Co., 127 Tenn. 412, 155 S. W. 167; Virginia-Carolina Chemical Co. *v.* Bouchelle, 12 Ga. App. 661, 78 S. E. 51.

[7] Gallus *v.* Elmer 193 Mass. 106, 78 N. E. 772, 8 Ann. Cas. 1067; Sampson *v.* Brandon Grocery Co., 127 Ga. 454, 56 S. E. 488. In Mahoney-Jones Co. *v.* Sams Bros., 128 Tenn. 207, 159 S. W. 1094, a partner of an insolvent firm transferred a large portion of his individual stock of merchandise in a firm creditor in payment of a claim of the latter against the firm, and it was held that the provisions of the bulk sales act must be complied with even as to creditors of the firm. But in Whitehouse *v.* Nelson, 43 Wash. 174, 86 Pac. 174, it was held that where a stock of a firm was sold a compliance with the act did not require notice to the individual creditors of the partners.

[8] See Gallus *v.* Elmer, 193 Mass. 106, 78 N. E. 772, 773, 8 Ann. Cas. 1067.

[9] See Sampson *v.* Brandon Grocery Co., 127 Ga. 454, 56 S. E. 488, 489.

statute is more extensive than that of either Massachusetts or Georgia, and this basis for the decision seems wholly untenable. As the transaction in question was for the creditor to take the stock and sell it and deduct the amount of the debt due him and return the remaining proceeds to the debtor, it was treated as analogous to a chattel mortgage and not as a sale, and hence not within the meaning of the act. Of course, the transaction was not, strictly speaking, a sale or chattel mortgage, but it is difficult to see why it would not come within the provision of the Iowa act which included any transaction to "sell, assign or deliver."

EXTRATERRITORIAL OPERATION OF WORKMEN'S COMPENSATION ACTS.—Where a provision as to its territorial operation is included in a workmen's compensation act, this provision governs.[1] But where the act contains no such provision the question is then one of statutory construction, and in construing these acts the courts have taken different views as to their extraterritorial effect. It has been decided that the English Workmen's Compensation Act has no application to injuries sustained outside of the United Kingdom except in the case of seamen.[2] A section under this act expressly provides for its extraterritorial operation in the cases of seamen and apprentices.[3] This express provision setting forth one particular case in which the act shall operate extraterritorially is the chief ground of the court's decision.[4] The Massachusetts act has been held not to operate outside of that state.[5] Certain peculiar provisions of the Massachusetts law furnish one of the grounds for that court's conclusion in thus interpreting the statute.[6] It seems apparent that the English and Massachusetts decisions as to this question are of little value as precedents because of the singular provisions of the respective laws construed. In other jurisdictions in which the question has arisen and been litigated in court the various acts have been construed to operate extraterritorially and thus to extend to injuries incurred outside of the state.[7] Such was the holding in the late cases of *Gooding* v. *Ott* (W. Va.), 87 S. E. 862 and *Post* v. *Burger & Gohlke* (N. Y.), 111 N. E. 351.

These holdings are sustained chiefly on the theory that the compensation act is a part of the contract between the parties and hence operative wherever the injury complained of occurs.[8] Indeed, it

[1] See Mulhall *v.* Fallon, 176 Mass. 266, 57 N. E. 386, 79 Am. St. Rep. 309, 54 L. R. A. 934.

[2] Tomalin *v.* Pearson, [1909] 2 K. B. 61, 2 B. W. C. C. 1; Schwartz *v.* India Rubber, etc., Co., [1912] 2 K. B. 299, 5 B. W. C. C. 390.

[3] See Tomalin *v.* Pearson, *supra;* Schwartz *v.* India Rubber, etc., Co., *supra.*

[4] See Tomalin *v.* Pearson, *supra.*

[5] Gould's Case, 215 Mass. 480, 102 N. E. 693, Ann. Cas. 1914D, 372.

[6] See Gould's Case, *supra.*

[7] Rounsaville *v.* Central Railroad Co. (N. J.), 94 Atl. 392; Kennerson *v.* Thames Towboat Co., 89 Conn. 367, 94 Atl. 372, L. R. A. 1916A, 436.

[8] See Kennerson *v.* Thames Towboat Co., *supra.* Under this theory, viz., that the law is a part of the contract, it would seem that the right of action should be determined by the *lex loci contractus* and not by the